

1 COURT OF COMMON PLEAS

2 HAMILTON COUNTY, OHIO

3

4 STATE OF OHIO)

5 PLAINTIFF,)

6 vs.) Case Number: B-9807452

7 FREDRICK HALL) (Volume 1 of 5)

8 DEFENDANT.)

9

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11 COMPLETE TRANSCRIPT OF PROCEEDINGS

12 - - -

13 APPEARANCES:

14 WILLIAM ANDERSON, ESQ.

15 On behalf of the Plaintiff.

16

17 ELIZABETH ZUCKER, ESQ.

and

18 JAMES RADER, ESQ.

19 On behalf of the Defendant.

20 BE IT REMEMBERED that upon the jury trial

21 of this cause, in the Court of Common Pleas,

22 before the Honorable STEVEN E. MARTIN, one of the

23 judges of the said Court of Common Pleas, on the

24 date hereinafter stated, the following proceedings

25 were had.

1 MORNING SESSION, April 27, 1999

2 THE COURT: Deputy, bring down Mr.
3 Hall and that will be for trial.

4 MR. ANDERSON: I will ask for a
5 separation.

6 THE COURT: Everybody who is going to
7 be a witness in this case potentially will
8 have to have a seat out in the hall. Are
9 either one of these people going to be
10 witnesses?

11 MR. RADER: Yes.

12 THE COURT: You'll have to have a seat
13 out in the hall on the bench, both of you.

14 MR. RADER: One of them is not going
15 to be a witness.

16 THE COURT: What's his or her name?

17 MR. ANDERSON: That's Mr. Hall's
18 wife.

19 THE COURT: She can sit there then.

20 THE DEFENDANT: She's going to be a
21 witness. My son is not going to be a
22 witness.

23 THE COURT: Your son?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay.

1 (Jury entered courtroom at 11:35 a.m.)

2 THE COURT: Everybody sit down except
3 the jurors.

4 All stand up and raise your right
5 hand.

6 (Jury sworn on voir dire.)

7 THE COURT: Please be seated.

8 Welcome, ladies and gentlemen. My name is
9 Steve Martin. I'm the Judge in this
10 courtroom and we're glad to have you here.
11 Our system of justice only works when
12 people like you are willing to take time
13 out of your lives to sit as jurors.

14 We do appreciate your willingness to
15 serve on cases in general and on this case
16 in particular.

17 This is a criminal case. It involves
18 several charges. The State is represented
19 by Bill Anderson. Does anybody know Mr.
20 Anderson?

21 The defendant is Fredrick Hall and his
22 attorneys are James Rader and Elizabeth
23 Zucker. Does anybody know the defendant or
24 his counsel?

25 This case is likely going into next

1 week. Our trial schedule will be that
2 we'll go today till about 3:30. We'll
3 probably go tomorrow if we can to 4:30 and
4 then Thursday about 4:30 and then we're
5 going to be off Friday because I have
6 another matter, and resume on Monday. And
7 I don't know how long it will take after
8 that.

9 It will complete, you'll get the case
10 on Monday or Tuesday, whoever the 12 are
11 that deliberate. But the case will go on
12 that schedule. Does that schedule present
13 a problem for anyone?

14 Ms. Stein?

15 PROSPECTIVE JUROR 1: Yes, Your Honor.
16 I had asked originally to be excused
17 Thursday and Friday because of previous
18 vacation plans.

19 THE COURT: Okay, that's no problem.
20 Glad you're raising it with us now.

21 By the way, for those who don't know,
22 I think most of you do know by now, we've
23 been handed these schematics. I'm not
24 clairvoyant. We don't know each other.
25 But that's fine. We'll excuse you for

1 cause at this time. Thank you very much.
2 Danny Williams.

3 Okay. Anybody else got a scheduling
4 problem that they know of up front?

5 This is a criminal case. The jurors
6 that are selected to sit on this case will
7 be asked to decide whether Mr. Hall is
8 guilty or not guilty. Does that kind of
9 decision give anybody such discomfort that
10 they don't want to sit on a criminal case?

11 The charges in this case are
12 felonious assault, attempt murder, and
13 failure to comply with the order of a
14 police officer.

15 Does the nature of those charges give
16 anybody any reason to believe they couldn't
17 be fair and impartial or wouldn't want to
18 serve on the case?

19 The case was investigated by the
20 Cincinnati Police Department and Ms.
21 Newman, I'll ask you -- Mr. Anderson, can
22 you get the officers that are involved?

23 MR. ANDERSON: Yes, Your Honor?

24 Potential officers from Cincinnati are
25 Huffman, Bailey, Neack, Eatrides, Ruberg

1 and Fromhold.

2 THE COURT: Do you know any of those
3 folks?

4 PROSPECTIVE JUROR 12: All of them.

5 THE COURT: Maybe it would be best if
6 you sit on another case, not this one. Not
7 saying you couldn't be fair and impartial.

8 PROSPECTIVE JUROR 12: I understand.

9 THE COURT: We usually strike people
10 that know any of the witnesses on a case.
11 Mr. Newman, thank you very much. We'll
12 excuse you for cause at this time.

13 (Prospective Juror 12 excused.)

14 THE COURT: Ms. Rucker?

15 Does anybody else know any of the
16 officers? You're Mr. Arkenau?

17 PROSPECTIVE JUROR: Yes, I'm a retired
18 Cincinnati police officer.

19 THE COURT: We'll excuse you as well
20 right now. Thank you very much, Mr.
21 Arkenau. I appreciate your bringing that
22 up. I saw the name and I thought I should
23 ask you, too. Thank you very much.

24 PROSPECTIVE JUROR: Uh-huh.

25 (Prospective Juror excused.)

1 THE COURT: Now, the process we're
2 about ready to go into is traditionally
3 called voir dire. That is the process
4 where the attorneys get to ask you
5 questions that bear on your particular
6 fitness to serve on this particular case,
7 not on your fitness to serve on any case
8 but just on this case.

9 And the questions aren't meant to
10 probe into your personal lives but they're
11 meant to give the attorneys the ability to
12 gauge whether or not you can fair and
13 impartial in this case.

14 My job as a Judge is similar to a
15 referee. I have no interest in this
16 proceeding one way or the other. My only
17 interest in this proceeding is to make sure
18 that the State of Ohio and the defendant
19 get a fair trial.

20 They are entitled to the same fair
21 trial, no one more so than the other.

22 What we want are jurors who can be
23 fair and impartial. If, however, the 12
24 that end up deciding the case -- if the
25 jury decides the case and I preside over

1 the case and we can look at each other at
2 the end of the case and say we gave both
3 sides a fair trial, that's all anybody can
4 ask for, regardless of the outcome.

5 So the voir dire process is set up by
6 the rules. And it's designed to try and get
7 jurors that can be fair and impartial in
8 the case.

9 With that, we'll begin.

10 Mr. Anderson?

11 MR. ANDERSON: Thank you, Your Honor.

12 VOIR DIRE EXAMINATION

13 BY MR. ANDERSON:

14 Good morning everybody.

15 As Judge Martin indicated, my name is
16 Bill Anderson. I'll be presenting the case
17 to you in the course of the next few days.
18 As Judge Martin indicated I will be asking
19 you questions, along with Mr. Rader and Ms.
20 Zucker, just to determine whether or not
21 you can in fact be fair and impartial in
22 this case. And I think you saw an example
23 of it just now when Juror Number 12, the
24 police officer who knew all those other
25 officers, the Court felt he probably

1 couldn't be fair and impartial because
2 these were guys that he worked with and
3 everything else so he was excused for
4 cause.

5 That's why we're here, to ascertain
6 whether or not you all can be fair and
7 impartial. So the questions I ask are
8 certainly not meant to pry but merely to
9 determine whether or not on behalf of the
10 State I feel that you could be fair and
11 impartial to the State.

12 I did read off some police officers'
13 names. I will read them very quickly
14 again. There are a few civilians that will
15 also testify in this matter. So listen
16 carefully and if you recognize any of the
17 names, please raise your hand.

18 As I indicated, the potential police
19 officer witnesses are Officers Huffman,
20 Bailey, Neack, Eatrides, Ruberg, and
21 Fromhold.

22 Is anybody familiar with any of those
23 police officers?

24 Potential civilian witnesses include
25 Kevin Davis, Johann Hart, Jimmy Martin, and

1 Lalita Moore. Does anybody recognize any
2 of those names?

3 And the final potential witness is an
4 individual by the name of Bill Schrand.
5 He's an employee of the coroner's office.
6 He does ballistics examinations and things
7 of that nature. Does anybody know Mr.
8 Schrand? Okay.

9 As Judge Martin indicated to you,
10 there are several charges in this case.
11 There are two counts of felonious assault;
12 actually I think four counts of felonious
13 assault; two counts of attempted murder and
14 one count of fleeing and eluding from a
15 police officer.

16 I'm not going to get into the facts
17 too much but I think it's reasonable in
18 order to ascertain whether or not you can
19 be fair and impartial to see whether
20 anybody has heard anything about the
21 case or remembers anything about it.

22 This occurred back on October 17,
23 1998, at approximately 3:15 on Republic
24 Street. It's alleged that the defendant
25 shot two juveniles, Johann Hart and Kevin

1 Davis. One of them was shot once and one
2 twice.

3 A broadcast of the car used in the
4 shooting was put out over the police radio.

5 A car matching the description was
6 observed by the police. The defendant was
7 observed driving that car by the police and
8 a chase ensued at 60 miles an hour through
9 some city streets.

10 The defendant was finally apprehended
11 by the police a short time thereafter and
12 he did make some statements concerning the
13 offense and things of that nature.

14 Does anybody remember anything about
15 this case? I'm sure at the time it
16 probably hit the news in the Metro section
17 in the Enquirer, something like that. I
18 see a lot of blank stares, so I'll assume
19 that nobody knows anything about this.

20 Judge Martin asked you a little
21 bit about whether or not the nature of the
22 case would affect anybody. Is there
23 anybody on the potential jury panel who is
24 I guess either pro gun or ante gun?
25 Anybody a member of handgun control or NRA?

1 Again, I see a lot of blank stares.
2 The bottom line is handguns are legal.
3 They're in society. They can be used for
4 good purposes as well as bad purposes.
5 Nobody who has any strong feelings one way
6 or the other?

7 What about the fact that somebody got
8 shot with a gun?

9 I'm not going to introduce a bunch of
10 medical records. There aren't any gory
11 photographs or anything of that nature that
12 you see in cases like this sometimes, but
13 you probably will see some scars on the
14 neck of one of the guys where he got shot.

15 Does anybody have a problem seeing
16 that, seeing those types of injuries in a
17 case like this?

18 I'll tell you right now, no gun was
19 recovered. There was no gun recovered in
20 the case so we do not have the weapon that
21 was used to shoot. There were some shell
22 casings recovered from the car that the
23 defendant was driving. Actually one shell
24 casing, two shell casings recovered at 10

25 --

1 MR. RADER: Objection, Your Honor.

2 This sounds like opening statement.

3 THE COURT: Sustained. Why don't we
4 move on into the other questions.

5 MR. ANDERSON: Okay. The fact that no
6 gun was recovered, is that going to pose a
7 problem for anybody? I mean we have
8 evidence that they were shot.

9 One of the things that you'll be
10 called upon to do is assess the credibility
11 of the witnesses that you hear from. And
12 Judge Martin will instruct you on what
13 types of things you look for. You
14 basically rely on your everyday experiences
15 and things of that nature.

16 But there are certain instructions
17 that you hear from Judge Martin concerning
18 credibility of the witnesses.

19 Ms. Williams, do you feel comfortable
20 assessing and judging the credibility of
21 people that you hear from?

22 PROSPECTIVE JUROR: Yes.

23 MR. ANDERSON: I didn't look at your
24 questionnaire. I'm sure you deal with
25 people on a day-in/day-out basis?

1 PROSPECTIVE JUROR: Yes.

2 MR. ANDERSON: Sometimes you believe
3 everything they tell you and sometimes not.

4 PROSPECTIVE JUROR: Right.

5 MR. ANDERSON: But you feel
6 comfortable in that. Do you all feel
7 comfortable listening to what somebody has
8 to say and then deciding if what they say
9 is true? Anybody have a problem with that?

10 One of the things that Judge Martin
11 will assist you on, as far as assessing
12 credibility, is whether somebody has a
13 prior conviction for a felony, a term of
14 imprisonment in excess of a year. And one
15 of the witnesses who got shot that night in
16 fact has a conviction. He was actually
17 carrying cocaine the night he was shot. Is
18 that going to sway anybody one way or the
19 other, the fact that he was probably out on
20 the street corner at 3:15 in the morning
21 dealing crack? Is that going to make you
22 say I don't care what he says, if he was
23 out there dealing crack.

24 Is it Ms. Rasnick? How does that play
25 in your mind?

1 PROSPECTIVE JUROR 6: It didn't.

2 MR. ANDERSON: He was out there
3 dealing crack was not a good thing. He's
4 locked up right now. He got convicted of
5 it. But the fact that he was out dealing
6 crack you're not going to say, well, that
7 guy was out dealing crack. It was against
8 the law. He probably deserved to get shot
9 anyway.

10 Ms. Richards, how do you feel about
11 that.

12 PROSPECTIVE JUROR 12: Doesn't have
13 any effect.

14 MR. ANDERSON: You'll listen to what
15 he has to say and you'll weigh his
16 testimony just like you would anybody else?

17 PROSPECTIVE JUROR 12: Correct.

18 MR. ANDERSON: With the provision so
19 that you can use that felony conviction in
20 part of your weighing of credibility?

21 PROSPECTIVE JUROR 12: True.

22 MR. ANDERSON: Mr. Trigger, how do
23 you feel about that?

24 PROSPECTIVE JUROR 10: I feel that
25 marijuana is a major item for a person's

1 life. What we're dealing with is a
2 person's life.

3 MR. ANDERSON: Actually it's crack
4 cocaine. It's actually a little more
5 serious than marijuana but it was illegal.
6 Because he was dealing doesn't mean he
7 deserved to get shot.

8 PROSPECTIVE JUROR 10: No.

9 MR. ANDERSON: Can you all agree with
10 me he was breaking the law? There is no
11 question about it.

12 Mr. Sauer?

13 PROSPECTIVE JUROR: Yes, that part is
14 wrong.

15 MR. ANDERSON: But just because he has
16 broken the law doesn't mean he can't be
17 telling the truth as well?

18 PROSPECTIVE JUROR 10: They could be
19 doing two things, yes.

20 MR. ANDERSON: Good things and bad
21 things?

22 PROSPECTIVE JUROR 10: True.

23 MR. ANDERSON: Judge Martin is going
24 to instruct you that when you assess the
25 credibility of witnesses you can believe

1 everything they say, you can believe
2 nothing they say, or you can believe part
3 of what they say. So you guys are put in a
4 position where you can pick and choose what
5 you want to believe from each witness. So
6 you don't have to say I believe him on
7 this, so I have to believe him on
8 everything, or I don't quite believe that.

9 PROSPECTIVE JUROR 10: In the end the
10 real thing is between him and the Lord.

11 MR. ANDERSON: That's a very good
12 question, Ms. Traverse. It's between him
13 and the Lord. But you know, the Lord is
14 not here right now and you are put in a
15 position to sit in judgment.

16 PROSPECTIVE JUROR: We're acting
17 through the Lord in my judgment;
18 decision-making, I should say.

19 MR. ANDERSON: Actually we're not
20 acting through the Lord because what you're
21 going to be instructed to do, Ms. Traverse,
22 if you sit on this jury, is follow the
23 instructions as Judge Martin gives you.

24 And we're dealing with the future
25 lives of these people and their actions and

1 what they have done.

2 Actually, what we're dealing with is
3 whether this defendant, Fredrick Hall, is
4 guilty or not guilty. Okay. We're not
5 here about these other two guys. They are
6 victims in the case. But we're here for
7 one purpose and that is to assess whether
8 this defendant, Fredrick Hall is guilty or
9 not guilty.

10 And everyone is innocent until proven
11 guilty. That's true and Judge Martin will
12 instruct you on that as well.

13 Ms. Travis, you've indicated we all
14 meet our maker at some point and that's
15 true. However, will you follow the law as
16 Judge Martin gives it to you even if you
17 disagree with it?

18 PROSPECTIVE JUROR: Yes.

19 MR. ANDERSON: Even if it violates
20 God's law?

21 PROSPECTIVE JUROR: Right.

22 MR. ANDERSON: Can you do that?

23 PROSPECTIVE JUROR: At this point,
24 yes.

25 MR. ANDERSON: Well, at this point, I

1 need more than that.

2 THE COURT: Ms. Travis, here's the
3 deal. What Mr. Anderson is getting at,
4 we're going to hear facts in this case and
5 it will be up to you to determine what
6 those facts are. I don't know what facts
7 you're going to hear but you're going to
8 hear the facts and it's up to you to
9 determine the facts in this case.

10 On the other hand, I'm the one who
11 determines what the law is. And when I
12 give you an instruction on the law, the
13 instruction will say that this is the law.
14 You have to follow the law even if you
15 think it's bad, even if you think it's
16 stupid, even if you don't think the law
17 should exist, you have to follow the law.

18 The question we're getting at here,
19 can you agree to do that up front, or are
20 you going to ignore what my instructions on
21 the law are?

22 That goes for everybody. Hold on just
23 a second.

24 Can everybody agree to do that?

25 Ms. Travis, can you agree to do that?

1 PROSPECTIVE JUROR 10: Yes.

2 THE COURT: Now, sir, what's your
3 name?

4 PROSPECTIVE JUROR 9: Mike Williamson.

5 THE COURT: Okay. You raised your
6 hand.

7 PROSPECTIVE JUROR 9: Honestly
8 speaking, if it went against my religious
9 beliefs, I'd probably have to -- I mean,
10 not anything on you or the court system, or
11 anybody or anything. I do believe in the
12 judicial system, discrepancies between you
13 and the Lord.

14 THE COURT: I'm not arguing with that.
15 Most of our -- as much as we try and get
16 away from it, our legal system, I don't try
17 to get away from it as much as say our
18 legal system is almost entirely based on
19 religious creeds that are common to a lot
20 of religions.

21 The question becomes this is a case
22 involving felonious assault, attempted
23 murder, and failure to comply with the
24 order of a police officer. If I give you
25 an instruction in this case, do you think

1 you can follow the law?

2 PROSPECTIVE JUROR: Sir, as long as
3 the law doesn't stray from the Bible.

4 THE COURT: Okay. Well, at this point
5 then I'll excuse you because here's the
6 reason. I can't guarantee how you see the
7 Bible that the law is going to be in
8 compliance with that. My guess is quite
9 frankly, the way I see it, the law that
10 I'll give you will be -- I don't know what
11 the facts are in this case and I have no
12 opinion in this case. But I will excuse
13 you at this time because what you have to
14 do at this point is agree to follow the law
15 as I give it to you, and we can't be
16 conditional with that in this situation.
17 We have a lot of very religious people who
18 sit on cases every day. Christian people.
19 Jewish people. Muslim people. They all
20 follow it. If you think that there might
21 be a potential for a conflict, whether
22 there actually is or not, it's probably
23 best that you don't serve on this
24 particular case. You go up and see Fritz
25 Meyer, the jury commissioner and serve on

1 another one. I'll excuse Mr. Williamson
2 for cause at this time.

3 Mr. Williamson, thank you very much
4 for raising your hand and bringing that to
5 our attention. I really appreciate it.
6 It's appreciated. Thank you very much. Go
7 on back upstairs if you will.

8 (Prospective Juror excused.)

9 THE COURT: Can everybody else agree
10 basically to follow the law as I give it to
11 you?

12 This doesn't usually come up but
13 that's okay. And you understand that you
14 and you along will decide the facts. I
15 have no opinion about this case. Don't
16 interpret anything that I say or do or any
17 rulings that I make that I have an opinion
18 on the facts.

19 Go ahead.

20 MR. ANDERSON: That gets us to our
21 next question.

22 Is there anybody that has a problem
23 sitting in judgment on another for either
24 religious, moral, or philosophical reasons?

25 No hands raised so I would assume that

1 you all feel comfortable. Basically, what
2 we're here for is this. We're going to put
3 witnesses on the stand. You're going to
4 assess what they tell you, decide what to
5 believe and apply the facts as you as a
6 deliberative body find them, as Judge
7 Martin gives them to you.

8 Ms. Prior, do you watch any TV shows
9 on homicides?

10 PROSPECTIVE JUROR 2: No.

11 MR. ANDERSON: Don't watch that much
12 TV, not on those types of shows?

13 PROSPECTIVE JUROR 2: No, I really
14 don't. None of the police type. Like ER
15 or something I watch.

16 MR. ANDERSON: I'm sure you've heard
17 the phrase beyond a reasonable doubt,
18 haven't you?

19 PROSPECTIVE JUROR 2: (Indicate yes.)

20 MR. ANDERSON: Judge Martin as part of
21 the law will instruct you as a juror what
22 the phrase beyond a reasonable doubt means.
23 And it's his job to instruct you on the
24 law. Is there any reason, Ms. Prior, that
25 you would hold the State to a higher burden

1 than proof beyond a reasonable doubt?

2 PROSPECTIVE JUROR: Do I get to hear
3 the definition of beyond a reasonable
4 doubt?

5 MR. ANDERSON: Yes.

6 PROSPECTIVE JUROR: I would say no.

7 MR. ANDERSON: I mean, you won't hold
8 -- Judge Martin will give you the
9 definition of proof beyond a reasonable
10 doubt. You won't say, well, I want the
11 State to prove it beyond any doubt or I
12 want the State to prove it to a hundred
13 percent certainty? I mean, you're not
14 going to require the State to meet its
15 burden beyond any doubt, are you?

16 PROSPECTIVE JUROR: No.

17 MR. ANDERSON: Mr. Blames, how about
18 you?

19 PROSPECTIVE JUROR 11: If you were
20 able to prove it without a doubt.

21 MR. ANDERSON: So what I'm saying is
22 that if the State is successful in meeting
23 its burden of proof as defined by law, you
24 could in fact find the defendant guilty?

25 PROSPECTIVE JUROR: Yes.

1 MR. ANDERSON: No problem if we meet
2 the burden of proof back there signing your
3 name in ink to a verdict form that this
4 guy's guilty?

5 PROSPECTIVE JUROR: Yes.

6 MR. ANDERSON: Likewise, if the State
7 of Ohio fails to meet its burden and this
8 is the part that always chokes me up a
9 little, but if we fail to meet the burden,
10 you have an obligation to find him not
11 guilty.

12 PROSPECTIVE JUROR: I will do that,
13 sir.

14 MR. ANDERSON: Fair enough.

15 Mr. Rysteel, how about you?

16 PROSPECTIVE JUROR 8: Yes.

17 MR. ANDERSON: It's kind of a weird
18 definition in some respects because there
19 is no absolute certainty of what the
20 definition is. But you will not hold the
21 State of Ohio to a higher burden because
22 there can be some doubt. It's doesn't have
23 to be a hundred percent. Okay? And
24 likewise if the State does not meet its
25 burden you have a duty and obligation to

1 find him not guilty, right?

2 PROSPECTIVE JUROR 8: Yes.

3 MR. ANDERSON: Ms. Bradford, how about
4 you? Do you have any problems with that
5 one way or the other?

6 PROSPECTIVE JUROR 7: No.

7 MR. ANDERSON: Is there anybody that
8 would have a problem if the State of Ohio
9 meets its burden in signing a guilty
10 verdict in ink back in the jury room? I
11 know it may sound like a stupid question
12 but "I think he did it," "I can't sit in
13 judgment of another person," "I'm not going
14 to sign a guilty verdict" -- do you all
15 feel comfortable in that?

16 As Judge Martin indicated to you,
17 myself and Mr. Rader have an advantage over
18 you guys because we've got these little
19 juror questionnaires that you filled out.
20 We know a little bit about you guys. You
21 know absolutely nothing about us.

22 What I'd like to do is kind of go
23 through the questionnaires. If anything
24 that you filled out on here pops out I'll
25 ask you about it.

1 I'll start with Mr. Williams. You've
2 indicated that either you or a member of
3 your family has been the victim of a crime.
4 I don't want to know what the crime is but
5 was it reported to the police?

6 PROSPECTIVE JUROR: Yes.

7 MR. ANDERSON: Were the suspects
8 apprehended, anything of that nature?

9 PROSPECTIVE JUROR: No.

10 MR. ANDERSON: Do you feel that the
11 police did everything they could in order
12 to solve the case, so to speak?

13 PROSPECTIVE JUROR: Sure.

14 MR. ANDERSON: Is there any reason that
15 you would give any more or any less
16 credibility to the testimony of a policeman
17 simply because he is a police officer?

18 PROSPECTIVE JUROR: No.

19 MR. ANDERSON: You would weigh him
20 just like you would every citizen that
21 walks in off the street?

22 PROSPECTIVE JUROR: Yes, I would.

23 MR. ANDERSON: Is there any reason you
24 could not be fair and impartial in this
25 case?

1 PROSPECTIVE JUROR: No.

2 MR. ANDERSON: Mr. Carter, is there
3 any reason you feel you cannot be fair and
4 impartial?

5 PROSPECTIVE JUROR 2: No.

6 MR. ANDERSON: I mean you don't know
7 me, you don't know the defendant, you don't
8 know anybody, you'll follow the law and all
9 the rest. Is there any reason that you
10 would give any more or any less credibility
11 to the police officers?

12 PROSPECTIVE JUROR 2: No.

13 MR. ANDERSON: Ms. Rueger, you
14 indicated that either you or a member of
15 your family were a victim of a crime. I
16 don't know what the crime was but was it
17 reported to the police?

18 PROSPECTIVE JUROR 3: Yes.

19 MR. ANDERSON: Were the police
20 successful in apprehending a suspect?

21 PROSPECTIVE JUROR 3: No.

22 MR. ANDERSON: Did that cause you any
23 concern at all?

24 PROSPECTIVE JUROR 3: No, I think they
25 tried to solve it.

1 MR. ANDERSON: You think the police
2 did everything they could to try and solve
3 the crimes against you or a member of your
4 family?

5 PROSPECTIVE JUROR 3: Yes.

6 MR. ANDERSON: Was the crime in
7 Cincinnati?

8 PROSPECTIVE JUROR 3: It was. The
9 circumstances were that it was on her
10 birthday and the young woman who took it
11 had filled out forms, a questionnaire.
12 When I reported the crime, I gave that
13 information to them. And, you know, they
14 told me she had aliases.

15 MR. ANDERSON: And you're a new alias?

16 PROSPECTIVE JUROR: Yeah.

17 MR. ANDERSON: So you were
18 disappointed with the way the police
19 handled it?

20 PROSPECTIVE JUROR: Maybe not -- they
21 didn't do everything they could do.

22 MR. ANDERSON: That's fair enough.
23 That's kind of why we're here. You'll find
24 certain cases where somebody has reported a
25 crime and they feel the police -- they are

1 not going to believe a word the police say.
2 But you don't feel that way. You'll listen
3 to the police officers?

4 PROSPECTIVE JUROR: Yes.

5 MR. ANDERSON: Just like you would
6 anybody else?

7 PROSPECTIVE JUROR: Yes.

8 MR. ANDERSON: Assess the credibility
9 by the same standards as you would every
10 other witness?

11 PROSPECTIVE JUROR: Yes.

12 MR. ANDERSON: Ms. Moody, is there any
13 reason you feel you couldn't be fair and
14 impartial?

15 PROSPECTIVE JUROR: No.

16 MR. ANDERSON: Mr. Ruther, not much on
17 here that sticks out. So I'd ask do you
18 feel that you can fair and impartial to the
19 State of Ohio and the defendant?

20 PROSPECTIVE JUROR 4: Yes.

21 MR. ANDERSON: Do you feel comfortable
22 listening to testimony and determining for
23 yourself what you believe is true and
24 what's not true?

25 PROSPECTIVE JUROR: Yes.

1 MR. ANDERSON: You can follow the law?

2 PROSPECTIVE JUROR: Yes.

3 MR. ANDERSON: Hold the State of Ohio
4 to its burden with no higher burden of
5 proof, make a decision based on the facts
6 and the law as Judge Martin gives it to
7 you?

8 PROSPECTIVE JUROR: Yes.

9 MR. ANDERSON: Is it Mr. Vonderhyde?

10 PROSPECTIVE JUROR: Yes.

11 MR. ANDERSON: Sir, you indicated that
12 you have served as a juror twice before.
13 One in 1992 and one in 1983.

14 PROSPECTIVE JUROR 5: That's right.

15 MR. ANDERSON: Both times?

16 PROSPECTIVE JUROR 5: Yes.

17 MR. ANDERSON: Did you sit on a jury
18 on both of those occasions?

19 PROSPECTIVE JUROR 5: Yes.

20 MR. ANDERSON: Civil or criminal jury?

21 PROSPECTIVE JUROR 5: Criminal.

22 MR. ANDERSON: Was there anything
23 about sitting on those criminal juries on
24 those two occasions that would in any way
25 influence your ability to be fair and

1 impartial in this case?

2 PROSPECTIVE JUROR 5: No, there
3 wasn't.

4 MR. ANDERSON: Is there anything that
5 happened during the course of these two
6 trials that would, I don't know, color your
7 outlook on things, so to speak?

8 PROSPECTIVE JUROR 5: No.

9 MR. ANDERSON: You found it okay to
10 sit back there in a room with 12 people and
11 kind of locked away till you reached a
12 verdict?

13 PROSPECTIVE JUROR 5: I did.

14 MR. ANDERSON: Any arguments or fights
15 break out?

16 PROSPECTIVE JUROR 5: No fights.
17 Disagreements.

18 MR. ANDERSON: But you were able to
19 resolve them?

20 PROSPECTIVE JUROR 5: Right.

21 MR. ANDERSON: Is there any reason you
22 feel you can't be fair and impartial in
23 this case?

24 PROSPECTIVE JUROR 5: There isn't.

25 MR. ANDERSON: Ms. Resnick, is there

1 any reason you feel you can't be fair and
2 impartial in this case?

3 PROSPECTIVE JUROR 6: No.

4 MR. ANDERSON: Both to the State as
5 well as the defendant?

6 PROSPECTIVE JUROR 6: No.

7 MR. ANDERSON: Ms. Bradford, you
8 indicated that you work in the Hamilton
9 County Department of Human Services. In
10 what particular branch of the Human
11 Services Department do you work?

12 PROSPECTIVE JUROR 8: Personnel
13 projects.

14 MR. ANDERSON: Ms. Vale, in your job
15 as a social worker you have been here all
16 the time testifying in trial, and doing
17 investigations for like welfare fraud and
18 food stamp fraud, things like that. Do you
19 do any of that?

20 PROSPECTIVE JUROR: I've done that
21 before, yes.

22 MR. ANDERSON: Have you ever testified
23 before at trial?

24 PROSPECTIVE JUROR: Yes.

25 MR. ANDERSON: How did that go? I

1 mean how did you feel being a witness in a case?

2 PROSPECTIVE JUROR: Just state the
3 facts. That's what happened.

4 MR. ANDERSON: Little nervous?

5 PROSPECTIVE JUROR: Yes.

6 MR. ANDERSON: Was there anything
7 about that experience, being a witness in a
8 case, that would in any way influence your
9 ability to be fair and impartial in that
10 case?

11 PROSPECTIVE JUROR: No.

12 MR. ANDERSON: You work for Hamilton
13 County? PROSPECTIVE JUROR: I work for
14 Hamilton County. MR. ANDERSON:
15 Judge Martin works in Hamilton County. Is
16 there any reason you would have any certain
17 allegiance to the State of Ohio because you
18 were a Department of Human Services
19 employee?

20 PROSPECTIVE JUROR: No.

21 MR. ANDERSON: Make a decision based
22 upon the facts as you determine them to be
23 and the law as Judge Martin gives it to
24 you?

25 PROSPECTIVE JUROR: Correct.

1 MR. ANDERSON: Mr. Rubenstein, you
2 indicated you were a juror a long time ago?

3 PROSPECTIVE JUROR 8: I think it was
4 the late sixties.

5 MR. ANDERSON: Did you serve on a jury
6 at that time?

7 PROSPECTIVE JUROR 8: Yes.

8 MR. ANDERSON: Civil, criminal?

9 PROSPECTIVE JUROR 8: One of each.

10 MR. ANDERSON: You were very busy.
11 I'm assuming you recognize -- I don't know
12 how much you remember about that but there
13 are differences between civil and criminal
14 laws as far as burden of proof and certain
15 admissible evidence and things like that.
16 Was there anything about those two
17 experiences back in the late sixties that
18 would preclude your ability to be fair and
19 impartial to the State as well as the
20 defendant?

21 PROSPECTIVE JUROR 8: No.

22 MR. ANDERSON: Do you feel you could
23 be fair and impartial in this case?

24 PROSPECTIVE JUROR 8: Yes, sir.

25 MR. ANDERSON: Ms. Allen, how about

1 you? Do you feel that you can be fair and
2 impartial in this case?

3 PROSPECTIVE JUROR 9: Yes.

4 MR. ANDERSON: Anything about the
5 facts of the case that would particularly
6 trouble you at all? I think the victims in
7 the case are both relatively young, 17, 18
8 years old, maybe 15 years old. Anything
9 about that?

10 PROSPECTIVE JUROR 9: No.

11 MR. ANDERSON: Ms. Travis, we've
12 already had a little discussion but I got a
13 few other things I'd like to talk about.
14 You indicated that either you or a member
15 of your family has been the victim of a
16 crime?

17 PROSPECTIVE JUROR: Yes.

18 MR. ANDERSON: Was that reported to
19 the police?

20 PROSPECTIVE JUROR: Yes, sir.

21 MR. ANDERSON: Were the police
22 successful in apprehending the suspect or
23 suspects?

24 PROSPECTIVE JUROR: No.

25 MR. ANDERSON: Would you hold that

1 against the police?

2 PROSPECTIVE JUROR: No, I don't hold
3 anything against them as yet.

4 MR. ANDERSON: You waiting on
5 something to come up so you could hold it
6 against them. PROSPECTIVE JUROR: I
7 wouldn't have the proof that they are not
8 doing their job although there is no news
9 still.

10 MR. ANDERSON: How long ago did this
11 happen? PROSPECTIVE JUROR: The first
12 Wednesday in March.

13 MR. ANDERSON: Of this year?

14 PROSPECTIVE JUROR: Yes.

15 MR. ANDERSON: City of Cincinnati?

16 PROSPECTIVE JUROR: Last month.

17 MR. ANDERSON: So it's relatively new?

18 PROSPECTIVE JUROR: Yes,
19 still hanging in the air. Sometimes I feel
20 like it may not be solved.

21 MR. ANDERSON: You also indicated that
22 you were either related or close friends of
23 a law enforcement officer or prosecutor and
24 you indicated not here?

25 PROSPECTIVE JUROR: Right. Another

1 state.

2 MR. ANDERSON: A law enforcement
3 officer or prosecutor?

4 PROSPECTIVE JUROR: Well, a policeman,
5 law enforcement, now deceased. And then I
6 have a relative that is a sheriff.

7 MR. ANDERSON: Where?

8 PROSPECTIVE JUROR: New York State.

9 MR. ANDERSON: Did you ever talk to
10 them about what they do in their job?

11 PROSPECTIVE JUROR: No, because I just
12 figure that's private and you can't discuss
13 a lot of things. In fact, if they
14 discussed every little thing that happened
15 it would probably fill up a newspaper or
16 book, you know.

17 MR. ANDERSON: Is there any reason you
18 feel you couldn't be fair and impartial in
19 this case?

20 PROSPECTIVE JUROR: No, I'll go by the
21 facts.

22 MR. ANDERSON: Fair enough.

23 Mr. Brady, you indicated that -- I
24 guess it was in New Brunswick, Maryland --

25 PROSPECTIVE JUROR: New Jersey.

1 MR. ANDERSON: -- back in '92 you
2 served on a jury?

3 PROSPECTIVE JUROR: Yes.

4 MR. ANDERSON: Anything about that
5 experience that would influence your
6 ability to be fair and impartial in this
7 case?

8 PROSPECTIVE JUROR: It was a one day
9 affair and I didn't serve on any jury.

10 MR. ANDERSON: It what?

11 PROSPECTIVE JUROR: I was called on
12 jury -- see in New Jersey they have one day
13 jury duty.

14 MR. ANDERSON: One day jury duty.

15 PROSPECTIVE JUROR: And the thing was,
16 I didn't leave the room.

17 MR. ANDERSON: Just sat in the room
18 all day?

19 PROSPECTIVE JUROR: Sat in the room
20 all day.

21 MR. ANDERSON: How did that affect
22 you?

23 PROSPECTIVE JUROR: Well, the longer
24 it got into the day I felt I would go on a
25 jury.

1 MR. ANDERSON: But you did not?

2 PROSPECTIVE JUROR: No, I didn't.

3 MR. ANDERSON: Is there anything about
4 waiting around to sit on a jury and not
5 being on one that caused you any
6 disappointment or anything?

7 PROSPECTIVE JUROR: Oh, no.

8 MR. ANDERSON: Do you feel you can be
9 fair and impartial in this case?

10 PROSPECTIVE JUROR: Yes.

11 MR. ANDERSON: You were only on that
12 one for a day. It may be a little longer
13 than that here. Are you okay with that?

14 PROSPECTIVE JUROR: Sure.

15 MR. ANDERSON: You're related to or
16 close friends of a law enforcement officer
17 or prosecutor?

18 PROSPECTIVE JUROR: Yes, I am related
19 to, my niece is the city solicitor.

20 MR. ANDERSON: Where?

21 PROSPECTIVE JUROR: In Cincinnati.

22 MR. ANDERSON: What's her name?

23 PROSPECTIVE JUROR: Jerry Callon.

24 MR. ANDERSON: Do you talk to her
25 about her job at all?

1 PROSPECTIVE JUROR: No.

2 MR. ANDERSON: So that would have no
3 influence on your ability to be fair and
4 impartial in this case?

5 PROSPECTIVE JUROR: Correct.

6 MR. ANDERSON: You're not allowed to
7 conduct any independent investigation.
8 If you're selected to serve on this jury
9 and you hear some testimony during the
10 course of the day, you won't be allowed to
11 run home and call her up and say what do
12 you think about this? I heard somebody say
13 this today.

14 PROSPECTIVE JUROR: I wouldn't do
15 that.

16 MR. ANDERSON: You'll be instructed
17 not to.

18 Ms. Kircher, I got it right. You also
19 indicated you are a close friend of a law
20 enforcement officer and a prosecutor.

21 PROSPECTIVE JUROR 12: I checked one of
22 them.

23 MR. ANDERSON: You checked both of
24 them.

25 PROSPECTIVE JUROR 12: Can I see it?

1 No.

2 MR. ANDERSON: So you want to disclaim
3 that answer?

4 PROSPECTIVE JUROR 12: I want to
5 disclaim that answer.

6 MR. ANDERSON: Ms. Rickert, is there
7 any reason you feel you could not be fair
8 and impartial in this case?

9 PROSPECTIVE JUROR: No.

10 MR. ANDERSON: Listen to both sides.
11 State will present evidence, the defendant
12 can present evidence but it does not have
13 to, listen to both sides and make a
14 determination based on the facts?

15 PROSPECTIVE JUROR: Yes.

16 MR. ANDERSON: The defendant is
17 presumed innocent until proven guilty
18 beyond a reasonable doubt. So as he sits
19 here today, he's innocent until the point
20 when the jury goes back to begin
21 deliberating and makes a finding of guilty,
22 and basically apply the law to it. Do you
23 feel comfortable doing that?

24 PROSPECTIVE JUROR: Yes.

25 MR. ANDERSON: Is there any reason any

1 one of the 12 jurors sitting in the panel
2 feels that they couldn't be fair and
3 impartial in this case, both to the State
4 of Ohio as well as the defendant, Fredrick
5 Hall?

6 Judge, at this point the State will
7 pass for cause.

8 THE COURT: Thank you.

9 Mr. Rader, for the defense?

10 VOIR DIRE EXAMINATION

11 BY MR. RADER:

12 Good afternoon, ladies and gentlemen.
13 My name is Jim Rader, one of the local
14 lawyers representing Mr. Hall in this case,
15 along with Elizabeth Zucker, who is sitting
16 at counsel table.

17 This is a very serious case so I have
18 those kind of feelings about this case, but
19 I want to tell you that I'm always happy to
20 be an American, be in an American court
21 with a jury.

22 I want you to know that in very few
23 countries in the world are there juries,
24 only the English speaking countries. United
25 States, Canada, Australia, Great Britain

1 and some of the smaller British colonies.
2 Otherwise, this case could be being decided
3 by a Judge.

4 So I take this profoundly and
5 seriously and have great respect for the
6 fact that a citizen in this country can be
7 judged by a jury of its peers.

8 That actually started with the Magna
9 Carta. Some of you might know in 1244, 700
10 years ago, peers were peers. They were
11 nobility and the king couldn't punish a
12 peer without the consent of the rest of the
13 nobility. And that's why juries, you sit
14 here as the rest of the nobility judging
15 one of your peers.

16 This leads to the point that I guess
17 every lawyer has asked himself, what he's
18 going to try to do in voir dire or in
19 questioning the jury or qualifying the
20 jury, seeing that the jury is qualified.
21 Seems to me after 20 years of practice that
22 the most helpful thing for me to address is
23 the judges instructions. Those
24 instructions, some of the concepts, go back
25 as I said for over 700 years. The language

1 that the Judge deals with is critically
2 important. These words are chosen with
3 extreme care. And it's the quality of the
4 definitions that you give them or your
5 interpretation that will make this job easy
6 or make it difficult. Your attention to
7 the Judge's instructions will probably have
8 a great deal to do with your satisfaction
9 with yourself as you think back on this
10 case later.

11 I'm told that public speaking is am
12 somewhere on the fear list between or after
13 death and snakes. And Ms. Bradford
14 indicated that the courts make her nervous;
15 is that right?

16 PROSPECTIVE JUROR 7: In the
17 beginning, yes.

18 MR. RADER: You've testified in
19 courtrooms probably many times, haven't
20 you?

21 PROSPECTIVE JUROR 7: Yes.

22 MR. RADER: I've seen you around the
23 system for at least a couple of years.
24 I know you're very busy. And let me
25 rephrase that by saying, we can take,

1 this is the only point in the trial
2 where we can carry on a dialogue, we can carry
3 on a conversation. I can say things to you
4 and you can say things back to me. And
5 your candor is extremely helpful to
6 me as it is to the Court.

7 I know you have an extremely heavy
8 workload and I would certainly respect the
9 notion that you would rather be back at the
10 job doing your workload.

11 Will you be candid with me about that,
12 or do you want to serve on this jury,
13 you've been waiting for this opportunity or
14 looking for this opportunity? How do you
15 feel about it? PROSPECTIVE JUROR:

16 Well, I haven't exactly been waiting or
17 looking forward to it. I'm here, so I'm
18 willing to do what I'm supposed to do. I
19 would not rather be back at the office with
20 my case load, no.

21 MR. RADER: Are you willing to give
22 this a shot?

23 PROSPECTIVE JUROR: I'm willing, yes.

24 MR. RADER: I've done this for 20
25 years. I'm still a little nervous myself

1 until I get into a case so I can understand
2 that. And that's the problem that I'd like
3 to address with you to some extent.

4 What if you're back in the jury room
5 and the foreman says, well, I think we all
6 agree on that point, let's move on, and you
7 don't agree with that point. Can you shed
8 some light on what you would do in that
9 case?

10 PROSPECTIVE JUROR: I would say that I
11 did not agree with it and state why.

12 MR. RADER: And you can see the
13 necessity of taking that position?

14 PROSPECTIVE JUROR: (Indicate yes.)

15 MR. RADER: Can you understand that
16 this is an individual responsibility,
17 although there are 12 of you, that this is
18 your responsibility?

19 PROSPECTIVE JUROR: Yes.

20 MR. RADER: Collectively. You act
21 collectively but you also act individually?

22 PROSPECTIVE JUROR: Yes.

23 MR. RADER: And there's got to be a
24 unanimous verdict even though you listen to
25 each other?

1 PROSPECTIVE JUROR: Yes.

2 MR. RADER: You understand that it
3 takes all 12 to find Mr. Hall guilty. It
4 takes all 12 to find him not guilty?

5 PROSPECTIVE JUROR: Yes.

6 MR. RADER: And if your vote is not
7 among that 12, then there's no majority,
8 there's no finding. You understand that?

9 PROSPECTIVE JUROR: Yes.

10 MR. RADER: And you'll exercise your
11 judgment?

12 PROSPECTIVE JUROR: Yes.

13 MR. RADER: Let's move on and talk to
14 Mr. Rinestatler, if you don't mind. I
15 first that you're an investor; is that
16 right?

17 PROSPECTIVE JUROR: Right.

18 MR. RADER: Finances?

19 Right.

20 MR. RADER: I understand. Mr.
21 Rinestatler, the prosecutor in his remarks
22 to you indicated that Mr. Hall had been
23 seen leaving the scene of the crime by a
24 policeman; do you recall that?

25 PROSPECTIVE JUROR: Yes.

1 MR. RADER: He had made some
2 statements?

3 PROSPECTIVE JUROR: Yes, sir.

4 MR. RADER: Do you believe the
5 prosecutor?

6 PROSPECTIVE JUROR: I don't believe or
7 disbelieve. I haven't heard any evidence
8 yet.

9 MR. RADER: And you haven't been to
10 law school? Or have you?

11 PROSPECTIVE JUROR: No.

12 MR. RADER: 'Cause that's an astute
13 answer. What I'm talking about is that
14 once you believe something you start down
15 that road, then you pick out things to
16 support your point of view. And it's
17 awfully hard for you to turn it around.
18 Fundamentally, what I'm asking you is can
19 you sit through this whole proceeding and
20 hear witness after witness after witness,
21 and force yourself by willpower to keep
22 from reaching a conclusion until the end of
23 this case?

24 PROSPECTIVE JUROR: I think so.

25 MR. RADER: Do you have any feelings

1 about that? I mean that's not easy.

2 PROSPECTIVE JUROR: I can do that.

3 It's like you decide you want to apply an
4 investment before you know all about it.

5 MR. RADER: So you're not troubled by
6 hearing a little bit about it and
7 understanding that you might hear something
8 different?

9 PROSPECTIVE JUROR: No.

10 MR. ANDERSON: How's Ms. Allen today?

11 PROSPECTIVE JUROR 9: Fine.

12 MR. RADER: Do you feel comfortable
13 being on this jury?

14 PROSPECTIVE JUROR 9: Yes.

15 MR. RADER: I believe the Court gives
16 a written jury instruction to the jury; is
17 that correct?

18 THE COURT: Yes, at the end of the
19 case, after I read it.

20 MR. RADER: You understand that these
21 instructions, these words, and I'm not
22 being facetious, these words were chosen by
23 geniuses over years and years and years,
24 chosen with great care. Will you keep that
25 in mind, and pay particular attention to

1 the Judge's instructions?

2 PROSPECTIVE JUROR 9: Yes.

3 MR. RADER: Do you feel comfortable
4 talking to me?

5 PROSPECTIVE JUROR 9: Yes.

6 MR. RADER: Do you feel comfortable
7 expressing yourself in the jury
8 deliberations?

9 PROSPECTIVE JUROR: Definitely.

10 MR. RADER: Give me some insight into
11 this. And this is a situation that
12 happened to me. I tried a case several
13 years ago in Judge Nadel's room on the
14 fifth floor. And some months later, Judge
15 Nadel related to me, he was walking through
16 the airport terminal and a gentleman -- it
17 was a man, not a woman -- walked up to him
18 and said, Judge, I recognize you. Do you
19 remember me? I was on the jury in that
20 case. And you know, Judge, I never was
21 quite sure whether that guy was guilty or
22 not.

23 Does that bring something to mind to
24 you? What does that bring to mind?

25 PROSPECTIVE JUROR: Well, obviously,

1 he had some concerns about the verdict if
2 it still bothered him at that point.

3 MR. RADER: And you understand that by
4 following the Judge's instructions
5 carefully, you won't end up like that?

6 PROSPECTIVE JUROR: Uh-huh.

7 MR. RADER: There's this notion, as
8 the prosecutor alluded to, about proof
9 beyond a reasonable doubt, something that
10 we relate to the most important of our own
11 personal affairs. Have you ever bought a
12 house?

13 PROSPECTIVE JUROR: I own a house.

14 MR. ANDERSON: Do you consider that
15 one of your most important personal
16 affairs, the decision to buy that house?

17 PROSPECTIVE JUROR: Yes.

18 MR. RADER: That's one of them. You
19 understand the magnitude of what we're
20 talking about in the matter of most
21 important decisions?

22 PROSPECTIVE JUROR: Yes.

23 MR. RADER: Ms. Travis, are you a
24 native Cincinnati?

25 PROSPECTIVE JUROR: Not originally. I

1 wasn't born and raised here.

2 MR. RADER: How long have you lived in
3 the city?

4 PROSPECTIVE JUROR: Since '76. July
5 of '76.

6 MR. RADER: Do you understand that
7 this is a profoundly serious case?

8 PROSPECTIVE JUROR: Definitely.
9 Felony assault and so forth, yes.

10 MR. RADER: And the fact that you will
11 have to make an individual decision in your
12 deliberations?

13 PROSPECTIVE JUROR 10: Right. And I
14 will do my best to make sure it is the
15 right decision and know all the facts
16 presented to me.

17 MR. RADER: Will you listen to the
18 other members of the jury panel in
19 deliberations and still independently make
20 up your own mind?

21 PROSPECTIVE JUROR: Yes. I will weigh
22 out their opinions and decisions and then
23 still apply my own.

24 MR. RADER: Mr. Brady, how are you
25 today?

1 PROSPECTIVE JUROR 11: Fine.

2 MR. RADER: I understand from your
3 questionnaire that you're into computer --

4 PROSPECTIVE JUROR 11: I was.

5 MR. RADER: -- programming, that kind
6 of thing.

7 PROSPECTIVE JUROR 11: Well, I wasn't
8 until I had a stroke nine years ago.

9 MR. RADER: Are you a native of
10 Cincinnati, this area?

11 PROSPECTIVE JUROR 11: No, I'm not. I
12 moved from New Jersey four and a half years
13 ago.

14 MR. RADER: How do you feel about
15 being on this jury?

16 PROSPECTIVE JUROR 11: I feel I can
17 weigh the -- I'm trying to think of the
18 word.

18 MR. RADER: Can
19 you weigh the evidence? PROSPECTIVE

20 JUROR 10: That's what I said.

21 MR. RADER: Pros and cons?

22 PROSPECTIVE JUROR 10: Yes.

23 MR. RADER: Do you feel that there are
24 serious terrible consequences to this
25 defendant on the one hand, and the

1 requirement of society that it protect
2 itself, do you understand that balance?

3 PROSPECTIVE JUROR 10: Yes, sir.

4 MR. RADER: Do you know what I mean by
5 it?

6 PROSPECTIVE JUROR 11: Yes.

7 MR. RADER: By putting it this way?

8 PROSPECTIVE JUROR 11: Yes.

9 MR. RADER: Do you feel that either
10 one of those are outweighed by the other?

11 PROSPECTIVE JUROR 11: No.

12 MR. ANDERSON: Objection, Your Honor.

13 THE COURT: Sustained.

14 What you have to do in this case is you're going
15 to have to weigh the evidence and you decide what
16 happened in this case, the jury does, and then
17 decide that. Filter the evidence through the
18 instructions of law that I give you, both verbally
19 and in writing, and go back and make your
20 decision. That's the only thing you really have
21 to do in this situation.

22 MR. RADER: Do you have a feeling
23 about the credibility of the police and can
24 you pick a percentage whether there maybe
25 -- and I have a lot of respect for them in

1 general and I know a lot of them are fine
2 people, but could you communicate to me
3 your feeling about the credibility of the
4 police? Do you feel that they are 90
5 percent truthful and candid or 95 percent
6 or 98 percent or can you put your gut
7 feelings into some kind of percentage?

8 MR. ANDERSON: I'll object to that,
9 too, Your Honor.

10 THE COURT: Sustained.

11 The police officers are to be judged
12 the same as any other witnesses. And can
13 everybody agree to Judge their credibility,
14 not necessarily to believe them simply
15 because they're police officers, not to
16 disbelieve them simply because they're
17 police officers but just take them as
18 another witness, hear their testimony, hear
19 their responses, whatever they maybe, and
20 judge that. Can everybody agree to do
21 that?

22 PJs: Yes.

23 THE COURT: Great. Thank you.

24 MR. RADER: And we have Ms. Rucker on
25 the end. Any particular feeling about

1 serving on a jury, whether you would --
2 have you looked forward to the opportunity,
3 is it a burden to you, do you have personal
4 considerations or family things that need
5 to be done, or difficulty with your
6 employment, taking time off?

7 PROSPECTIVE JUROR 12: No, it's not a
8 burden.

9 MR. RADER: Do you view this as a
10 civic opportunity to do a civic duty?

11 PROSPECTIVE JUROR 12: Yes, I would
12 say so.

13 MR. RADER: Were you aware of the fact
14 that relatively few countries have juries?

15 PROSPECTIVE JUROR 12: Yes, I was.

16 MR. RADER: Anybody in your family
17 ever been caused great sorrow or trauma or
18 whatever by drugs?

19 PROSPECTIVE JUROR 12: No.

20 MR. RADER: Any close friends?

21 PROSPECTIVE JUROR 12: No.

22 MR. RADER: Your Honor, if it please
23 the Court, we'll pass for cause.

24 THE COURT: All right. Ladies and
25 gentlemen, we'll move into what's called

1 the peremptory challenge phase. Each side
2 in a criminal case is entitled to four
3 peremptory challenges.

4 The attorneys may excuse one or more
5 of you from the jury for almost any reason
6 under the sun. And it's a perfectly
7 legitimate and permissible part of the
8 trial. As with anything else, the State
9 goes first. State care to exercise its
10 first peremptory?

11 MR. ANDERSON: The State would thank
12 and excuse Juror Number 10.

13 THE COURT: Ms. Naves, thank you very
14 much. You can go back up to the jury
15 commissioner's office. Thank you very much
16 for being with us this morning. They might
17 still be able to get you on another panel
18 today. So thank you very much.

19 Mr. Adams.

20 Mr. Anderson, do you care to inquire
21 of Mr. Adams?

22 MR. ANDERSON: Yes, Your Honor.
23 Good morning. How are you?

24 PROSPECTIVE JUROR: I'm fine.

25 MR. ANDERSON: You heard the questions

1 that I asked the prospective juror panel
2 and you heard the questions that Mr. Rader
3 asked the prospective jury panel. Are
4 there any answers that you would give to
5 those questions that would differ markedly
6 from what seems to be the consensus of the
7 panel?

8 PROSPECTIVE JUROR: No.

9 MR. ANDERSON: Do you feel comfortable
10 assessing and weighing credibility of
11 witnesses that you may hear from?

12 PROSPECTIVE JUROR: Yes.

13 Do you have any problem following the
14 law as Judge Martin gives it to you?

15 PROSPECTIVE JUROR: No.

16 MR. ANDERSON: Do you have any problem
17 holding the State of Ohio to proof beyond a
18 reasonable doubt and no higher?

19 PROSPECTIVE JUROR: No.

20 MR. ANDERSON: If the State meets its
21 burden you have a duty and obligation to
22 find the defendant guilty, right?

23 PROSPECTIVE JUROR: Yes.

24 MR. ANDERSON: But if we don't meet
25 the burden of proof, you have a duty and

1 obligation to find him not guilty?

2 PROSPECTIVE JUROR: Yes.

3 MR. ANDERSON: Do you have any problem
4 sitting in judgment of another person?

5 PROSPECTIVE JUROR: No.

6 MR. ANDERSON: Is there any reason you
7 feel you can't be fair and impartial in
8 this case?

9 PROSPECTIVE JUROR: No.

10 MR. ANDERSON: The fact that at least
11 one of these victims did in fact have crack
12 cocaine on him, or cocaine on him, at the
13 time of the shots, would that in any way
14 influence your decision-making in this
15 case?

16 PROSPECTIVE JUROR: No.

17 MR. ANDERSON: Think you could be fair
18 and impartial to the State of Ohio as well
19 as the defendant?

20 PROSPECTIVE JUROR: Yes.

21 MR. ANDERSON: Thank you, Judge.
22 State would pass for cause.

23 THE COURT: Mr. Rader?

24 MR. RADER: Mr. Adams, how are you
25 this afternoon?

1 PROSPECTIVE JUROR: Okay.

2 MR. RADER: Do you want to serve on
3 this jury?

4 PROSPECTIVE JUROR: Yes.

5 MR. RADER: Can you start out with --
6 because you've heard accusations made
7 against Mr. Hall already. You heard, I
8 think the prosecutor indicated what the
9 case was about. Can you start out with a
10 clean slate, with a balance scale?

11 PROSPECTIVE JUROR: Yes.

12 MR. RADER: And you have no
13 preconceived notions about what the nature
14 of this case might be?

15 PROSPECTIVE JUROR: No.

16 MR. RADER: And can you tell me
17 whether you will hold that attitude until
18 the Judge sends you back to the jury room
19 to deliberate?

20 PROSPECTIVE JUROR: Yes.

21 MR. RADER: That's not easy. You
22 understand hearing witness after witness
23 and going this way and that way and this
24 way and that way, you're confident that you
25 can withhold judgment until you hear all

1 the evidence?

2 PROSPECTIVE JUROR: Yes.

3 MR. RADER: I'll take your word for
4 it. Thank you.

5 Your Honor, we pass for cause as to
6 Mr. Adams.

7 THE COURT: Defense care to exercise
8 its first peremptory challenge?

9 MR. RADER: Your Honor, we
10 respectfully ask the Court to excuse Juror
11 Number 1, Ms. Williams.

12 THE COURT: Ms. Williams, thank you
13 very much for your time. You're excused.
14 You can head back up to the jury
15 commissioner's office if you will. Thank
16 you very much.

17 (Prospective Juror Williams excused.)

18 THE COURT: Ms. Brooks, have a seat in
19 seat number one, if you would.

20 State care to inquire as to Ms.
21 Brooks?

22 MR. ANDERSON: Yes, Your Honor.
23 Good afternoon, Ms. Brooks.

24 PROSPECTIVE JUROR: Hi.

25 MR. ANDERSON: I know you heard the

1 questions that I've asked and you've heard
2 the questions Mr. Rader has asked. Is
3 there any reason you feel you cannot be
4 fair and impartial in this case?

5 PROSPECTIVE JUROR: No.

6 MR. ANDERSON: Think you can listen to
7 the testimony and the evidence, and make a
8 determination of the facts, follow the law
9 as Judge Martin gives it to you and render
10 a true and just verdict?

11 PROSPECTIVE JUROR: Yes.

12 MR. ANDERSON: You indicated you have
13 a friend or family member in law
14 enforcement or a prosecutor.

15 PROSPECTIVE JUROR: I have a cousin
16 who is an officer in Forest Park.

17 MR. ANDERSON: Is that the one and
18 only relation?

19 PROSPECTIVE JUROR: Also there is a
20 member of my church. He's a Judge or
21 something. MR. ANDERSON: He's a Judge?

22 PROSPECTIVE JUROR: Yeah.

23 MR. ANDERSON: Do you know where?

24 PROSPECTIVE JUROR: Domestic Relations
25 I think.

1 MR. ANDERSON: Who is that?

2 PROSPECTIVE JUROR: I don't remember
3 his name. Payne.

4 MR. ANDERSON: Do you ever talk to
5 your cousin who's a police officer in
6 Forest Park?

7 PROSPECTIVE JUROR: I hardly ever see
8 him.

9 MR. ANDERSON: Never talk to him about
10 his job?

11 PROSPECTIVE JUROR: No.

12 MR. ANDERSON: The fact that you're
13 related to a police officer, will that in
14 any way affect how you assess the
15 credibility of the police officer?

16 PROSPECTIVE JUROR: No.

17 MR. ANDERSON: You've indicated also
18 that you work for the IRS. What do you do
19 for them?

20 PROSPECTIVE JUROR: I work in customer
21 service. MR. ANDERSON: Has it
22 slowed down a little bit in the last couple
23 of weeks?

24 PROSPECTIVE JUROR: No.

25 MR. ANDERSON: Going on strong. I'm

1 sure you could probably use a couple days
2 off, couldn't you?

3 PROSPECTIVE JUROR: Yes.

4 MR. ANDERSON: Is there any reason
5 you feel you couldn't be fair and
6 impartial?

7 PROSPECTIVE JUROR: No.

8 MR. ANDERSON: Your Honor, the State
9 will pass for cause.

10 THE COURT: Thank you.

11 Mr. Rader?

12 MR. RADER: Ms. Brooks, how are you
13 today?

14 PROSPECTIVE JUROR: Okay.

15 MR. RADER: Do you feel like you come
16 to this case with an even scale, a balanced
17 scale, that you have no disposition one way
18 or the other?

19 PROSPECTIVE JUROR: No.

20 MR. RADER: Have you personally or any
21 of your friends been hurt or damaged by the
22 drug problem that we have?

23 PROSPECTIVE JUROR: No.

24 MR. RADER: IRS people have a
25 reputation for being assertive, I guess,

1 but can you be assertive when you're back
2 in the room if you feel confident that
3 you'll state your position?

4 PROSPECTIVE JUROR: Yes.

5 MR. RADER: You understand from -- you
6 probably heard my questions about when the
7 jury foreman says, I think we all agree on
8 this, let's move on, and you feel
9 uncomfortable and say hey, wait a minute.
10 I don't agree.

11 PROSPECTIVE JUROR: I would do that.

12 MR. RADER: Your Honor, we pass for
13 cause as to Ms. Brooks.

14 THE COURT: State care to exercise its
15 second peremptory?

16 MR. ANDERSON: State is satisfied with
17 the composition of the jury. We would
18 pass.

19 THE COURT: If someone passes that's
20 deemed to have used their peremptory.

21 Defense care to exercise their
22 second peremptory challenge?

23 MR. RADER: Yes, Your Honor. We
24 respectfully ask the Court to excuse Juror
25 Number 5, Mr. Sonderhyde. Thank you very

1 much.

2 (PROSPECTIVE JUROR 5 excused.)

3 THE COURT: Ms. West, have a seat in
4 seat Number 5.

5 All right, Mr. Anderson.

6 MR. ANDERSON: Ms. West, again, you've
7 heard all the questions that I asked the
8 panel previously and the questions Mr.
9 Rader has asked.

10 Is there any answer that you feel
11 would differ from what the consensus has
12 been?

13 PROSPECTIVE JUROR: No.

14 MR. ANDERSON: Do you feel comfortable
15 sitting in judgment of another person?

16 PROSPECTIVE JUROR: Yes, sir.

17 MR. ANDERSON: Do you feel comfortable
18 assessing the credibility of the witnesses
19 you may hear from?

20 PROSPECTIVE JUROR: Yes.

21 MR. ANDERSON: You can follow the law
22 as Judge Martin gives it to you?

23 PROSPECTIVE JUROR: Yes.

24 MR. ANDERSON: Have no problem signing
25 a guilty verdict in ink if the State meets

1 its burden?

2 PROSPECTIVE JUROR: No.

3 MR. ANDERSON: And sign a not guilty
4 verdict if we don't?

5 PROSPECTIVE JUROR: That's correct.

6 MR. ANDERSON: Can you be fair to both
7 the State of Ohio as well as the defendant,
8 Fredrick Hall?

9 PROSPECTIVE JUROR: I'll do my best.

10 MR. ANDERSON: Thank you. The State
11 will pass for cause.

12 THE COURT: Mr. Rader?

13 MR. RADER: Good afternoon. How are
14 you? MR. RADER: Is this your first week
15 on jury duty?

16 PROSPECTIVE JUROR: Yes, it is.

17 MR. RADER: Are you looking forward to
18 it?

19 PROSPECTIVE JUROR: Yes.

20 MR. RADER: What were your feelings
21 about coming down here for jury duty?

22 PROSPECTIVE JUROR: I was reluctant
23 but I'm now into it. I've never been on a
24 jury before but I have been in a courtroom
25 before.

1 MR. RADER: Did you hear my recitation
2 initially about this being a very rare
3 system in the world, that being judged by a
4 jury of your peers?

5 PROSPECTIVE JUROR: Yes.

6 MR. RADER: You realize how awesome
7 your responsibility is here, especially in
8 this jury; very serious case.

9 PROSPECTIVE JUROR: It's nice that we
10 can do that. MR. RADER: Thank you very
11 much. I appreciate your time. Thank you.

12 We pass for cause as to Ms. West, Your
13 Honor.

14 THE COURT: Mr. Anderson, State care
15 to exercise its third peremptory?

16 MR. ANDERSON: State would pass.

17 THE COURT: Defense care to exercise
18 its third peremptory challenge?

19 MR. RADER: May I have just a moment?

20 THE COURT: Sure, take the time you
21 need.

22 (Pause in proceedings.)

23 MR. RADER: Your Honor, we
24 respectfully ask the Court to excuse Juror
25 Number 11, Mr. George Blade.

1 THE COURT: Mr. Blade, thank you very
2 much for your time. Head back up to the
3 Jury Commissioner's office if you will.
4 Thank you for being with us today.

5 (Prospective Juror excused.)

6 Ms. Thomason.

7 MR. ANDERSON: Ms. -- is it Thomason?

8 PROSPECTIVE JUROR: Yes,

9 MR. ANDERSON: You've indicated you're
10 retired.

11 PROSPECTIVE JUROR: Yes.

12 MR. ANDERSON: What did you do when
13 you were working?

14 PROSPECTIVE JUROR: Secretarial,
15 administrative assistant for 45 years.

16 MR. ANDERSON: Where?

17 PROSPECTIVE JUROR: The last 15 years
18 for Johnson & Johnson.

19 MR. ANDERSON: Okay. Ms. Thomason,
20 you've heard the questions I've asked. You
21 heard the questions Mr. Rader has asked.
22 Is there any reason you feel you couldn't
23 be fair and impartial in this case?

24 PROSPECTIVE JUROR: No.

25 MR. ANDERSON: Follow the law, assess

1 the credibility of witnesses, do all the
2 things that we've talked about previously?

3 PROSPECTIVE JUROR: Yes.

4 MR. ANDERSON: Okay. Thank you.

5 Your Honor, the State will pass for
6 cause.

7 THE COURT: Mr. Rader?

8 MR. RADER: It's not Thomas, it's
9 Thomason?

10 PROSPECTIVE JUROR: Right.

11 MR. RADER: I'll essentially ask you
12 the same questions I asked Ms. West. What
13 was your feeling about coming down here for
14 jury duty?

15 PROSPECTIVE JUROR: Well, I didn't
16 jump up and down with joy. It's an
17 obligation. It's a duty.

18 MR. RADER: Do you feel that it's a
19 duty, you know, like, more than a
20 privilege, or do you have any feelings
21 about that?

22 PROSPECTIVE JUROR: Well, it's a
23 privilege to live in a country where you
24 can do it.

25 MR. RADER: Do you think the

1 government should be more restrictive in
2 order to suppress crimes or do you think
3 that it's about right the way it is? Can
4 you give me some notion as to how you feel
5 about that? Should the government crack
6 down and try to lower the crime rate even
7 though in doing so they suppress some of
8 our freedom?

9 MR. ANDERSON: Objection.

10 THE COURT: Sustained. Next question.

11 MR. RADER: Do you feel an obligation
12 to defend the rights of an innocent
13 defendant?

14 PROSPECTIVE JUROR: Well, certainly.

15 MR. RADER: Thank you.

16 THE COURT: Okay. State care to
17 exercise its fourth peremptory challenge?

18 MR. ANDERSON: State would pass, Your
19 Honor.

20 THE COURT: Defense care to exercise
21 its fourth peremptory challenge?

22 MR. RADER: May I have just a moment?

23 THE COURT: Sure. Take the time you
24 need.

25 (Pause in proceedings.)

1 MR. RADER: Your Honor, I respectfully
2 ask the Court to excuse Juror Number 8, Mr.
3 Ramsey.

4 THE COURT: Mr. Ramsey, thank you very
5 much for your time today. Have a great
6 afternoon. Go back on up to the Jury
7 Commissioner's office if you will.

8 Mr. Stratton, have a seat in seat
9 Number 8, please.

10 Mr. Anderson?

11 MR. ANDERSON: Mr. Stratton, you heard
12 the questions. Do you think you can be
13 fair and impartial in this case?

14 PROSPECTIVE JUROR: Yes, sir.

15 MR. ANDERSON: Listen to the
16 testimony, the evidence, make a
17 determination based on your assessment of
18 the witness's credibility, apply the law as
19 Judge Martin gives it to you and render a
20 verdict that you believe to be true and
21 just?

22 PROSPECTIVE JUROR: Yes, sir.

23 MR. ANDERSON: Any reason that you
24 would be biased one way or another, either
25 for or against the State or for or against

1 the defendant?

2 PROSPECTIVE JUROR: No.

3 MR. ANDERSON: Thank you, Your Honor.

4 The State would pass for cause.

5 THE COURT: Mr. Rader?

6 MR. RADER: Mr. Stratton, how are you

7 this afternoon?

8 PROSPECTIVE JUROR: Little nervous.

9 MR. RADER: You've got stage fright or
10 public speaking?

11 PROSPECTIVE JUROR: Public speaking.

12 MR. RADER: I'll be honest. This is a
13 wonderful room. Do you feel comfortable in
14 stating your position to the rest of the
15 jury in deliberations?

16 PROSPECTIVE JUROR: Yes, I do.

17 MR. RADER: What do you do for a
18 living?

19 PROSPECTIVE JUROR: Sales and
20 marketing for the directory of Cincinnati
21 Bell.

22 MR. RADER: Do you do sales work?

23 PROSPECTIVE JUROR: Yes, sir.

24 MR. RADER: Just a comment about
25 nervousness. Some of us, like lawyers for

1 instance, they put themselves in a role,
2 and then talk and communicate pretty well.

3 I'm sure sales is something similar,
4 isn't it?

5 PROSPECTIVE JUROR: Yes.

6 MR. RADER: Glad to have you here.
7 Thank you.

8 We pass for cause, Your Honor.

9 THE COURT: Okay. The peremptories
10 having been exhausted, we will now seat an
11 alternate or attempt to do so.

12 Mr. Wagner, have a seat in the seat
13 marked A. Since this case is going to go
14 for an extended period of time -- it's
15 going to go into next week, it's customary
16 that we seat an alternate in case some
17 illness or emergency would befall one of
18 the regular jurors. We, of course, hope
19 that doesn't happen but it might.

20 And the point I'm getting to here is
21 that if you're the alternate juror, you may
22 or may not actually get to go back and
23 deliberate, but you'd be here for the whole
24 trial. But at the end of the trial I might
25 just excuse you out the door and say thank

1 you very much, and that would be the extent
2 of your jury service in the courtroom and
3 the whole time you're on jury duty.

4 Knowing that can happen, can you still
5 give this case your best attention possible
6 and pay the most attention you can to it,
7 understanding that it's possible that you
8 won't go back for deliberations, and it's
9 possible that you might? Can you still do
10 that?

11 THE COURT: Be honest. It's too
12 important.

13 PROSPECTIVE ALTERNATE: Well, I'm
14 willing at this point. I got the alternate
15 position.

16 THE COURT: Would you rather just try
17 and get on another panel?

18 PROSPECTIVE ALTERNATE: Yeah, I'd
19 rather go to another jury.

20 THE COURT: I appreciate your honesty.
21 Thank you very much. It's better that you
22 raised that now rather than daydream
23 through the case and at the end then you
24 got a problem.

25 With that, we'll excuse you. Thank

1 you very much. You can go back up to the
2 Jury Commissioner's office.

3 And that raises -- we are going to
4 put an alternate on this jury. What we're
5 going to do and I hope this doesn't
6 inconvenience you all too much, what we're
7 going to do is break now until 2:00. We've
8 got to check two things. We have to see if
9 there are more jurors upstairs. I already
10 asked Ms. Schwier to do that. There is
11 another panel upstairs. If that case would
12 not go, we would have other people to come
13 up here and be our prospective alternate.

14 You 12 are at this point in time the
15 12 jurors that will hear the case. It's
16 important, though, that we have an
17 alternate. I'd say in 20 to 25 percent of
18 our cases, especially those that go more
19 than three or four days. If something does
20 come up with somebody, death of a family
21 member, something comes up, some sort of
22 illness, so we do need alternates?

23 So what I would ask you to do is come
24 back at 2:00. If there's no more
25 alternates, prospective alternates, what

1 I'll do is excuse you at 2:00 until
2 tomorrow morning. Then we'll come back and
3 seat the alternates, do opening statements
4 and go from there.

5 So there's several admonitions that
6 I'm going to give you, and I'll give them
7 to you now, and I'll repeat them during the
8 trial.

9 At no time until you're called upon to
10 deliberate this case are you to come to any
11 conclusions based on anything you see or
12 hear. I don't want you to come to a
13 conclusion -- it's unfair to both sides if
14 you come to one conclusion after the first
15 witness, then a conclusion after the second
16 witness, and each witness throughout the
17 entire case, and then at the end of the
18 case there's 12 of you and that's not a
19 reason. You'll be able to sit and share
20 each other's experiences and come to a
21 resolution of the case.

22 So don't come to any conclusions based
23 on anything you see or hear until you're
24 called upon to do so and that's when you're
25 required to do that.

1 At no time are you to discuss this
2 case amongst yourselves or with anyone else
3 or permit anyone to discuss it in your
4 presence until you're called upon to
5 deliberate.

6 At no time are you to do anything to
7 independently prove or disprove any facts
8 you may hear in this case. In other words,
9 don't try and visit the scene, don't try
10 out certain things that you may hear
11 witnesses testify about. To do so is
12 improper.

13 Listen to the evidence that's going to
14 be proffered to you today. Neither side
15 thus far has made any motion to visit or go
16 any place or show you anything. And that
17 tells me that both sides believe that a
18 fair trial could be had if you just hear
19 the evidence that you hear here.

20 I don't believe there are going to be
21 any news reports of this case. There have
22 not been any reporters in here. You've all
23 indicated that if there were previous
24 reports, you've either forgotten about them
25 or never saw them, which is fine.

1 In some cases we have, as you might
2 imagine, I instruct the jury not to go like
3 a week and don't read the newspapers, don't
4 watch TV news, don't listen to the radio
5 news. I'm not going to do that in this
6 case.

7 If you should come across something
8 that is about this case, report it to us
9 but you're to ignore it. It's your own
10 observations and your own analysis. This
11 case is to be decided on the evidence. It
12 will be the testimony of the witnesses, any
13 exhibits that are admitted, and also you'll
14 filter the evidence through my instructions
15 as to what the law is. That's all it
16 should be decided on.

17 The attorneys and the parties, and
18 some of the witnesses you may see out in
19 the hallway. They're all going to ignore
20 you. That's because I am telling them to
21 ignore you.

22 This case is to be decided on the
23 facts, not some courtesy from a person who
24 had a chance to hold the door open or
25 anything else. It's to be decided solely

1 on the facts as you hear them.

2 If you have issues that come up that
3 you need answers on, or scheduling problems
4 or anything else, contact Ms. Schwier and
5 she will give you our phone number if
6 necessary. But just ask her. She cannot
7 answer questions relating to factual issues
8 or legal questions. But if you want to know
9 where's a good place to get a bite to eat,
10 she can answer that.

11 If you can't make it tomorrow at 9:45
12 but you can at 10:00, tell her that, too,
13 and she will help you out with that.

14 The people who work in the courtroom
15 are Pat Nash. She's the court reporter.
16 She takes everything down in steno. Jill
17 Schweir is the bailiff and she's primarily
18 in charge of your care. And Krista Hekler
19 is a law student. And she had to go to a
20 doctor's appointment. She's our constable.

21 We have pending in this courtroom
22 approximately four hundred cases. The door's
23 going to open. The phones are going to
24 ring. Ms. Schweir and Ms. Hekler will be
25 getting up and handling things. Some

1 people will come to the door and Jill will
2 signal them around, like this. That means
3 you're supposed to go around to this door.

4 I tell you all this stuff because I
5 want you to ignore all of it. And none of
6 it has anything to do with the case
7 whatsoever. Every time that doors opens, I
8 don't want 12 heads swinging that way.
9 Just ignore it. It's all part of the
10 natural operation of the courtroom. Has
11 nothing to do with this case.

12 We have no more important case than
13 this one. This is these parties only
14 opportunity to get a fair trial. As I
15 indicated before, the State is entitled to
16 a fair trial and the defendant is entitled
17 to a fair trial. They're entitled to the
18 same fair trial. Part of giving them a
19 fair trial is you give them your undecided
20 attention.

21 And that said, we'll meet back, return
22 to the jury room by 2:00. And we'll see if
23 we can seat an alternate today, and if we
24 can't, we'll come back tomorrow morning.
25 Thank you very much. (Jury left

1 courtroom at 1:00 p.m.)

2 THE COURT: Anything on behalf of the
3 State?

4 MR. ANDERSON: No, Your Honor.

5 THE COURT: Defense?

6 MR. RADER: No, Your Honor.

7 THE COURT: I think we're going to be
8 able to seat an alternate. Probably what
9 we'll do today is seat an alternate if we
10 can. We think -- yeah, the other jury
11 might wash out. We'll seat an alternate if
12 we can and then we'll do opening statements
13 and that might be as far as we're able to
14 get. Let's see how long it takes.

15 You think about 30 minutes for
16 opening, Mr. Rader?

17 MR. RADER: Best guess, Your Honor.

18 THE COURT: You're 15?

19 MR. ANDERSON: Not long.

20 THE COURT: We'll see how far we can
21 get.

22 (Proceedings recessed.)

23

24

25

AFTERNOON SESSION

APRIL 27, 1999

(The prospective jury panel
entered the courtroom at 2:05 p.m.)

THE COURT: Welcome back, ladies
and gentlemen.

Will the prospective alternates,
and that's what you all are today, stand
and raise your right hand.

(The prospective alternate jurors were
sworn.)

THE COURT: What you all are here
for today is we've seated 12 members on
the jury. This is a criminal case and we
ran out of jurors and we're looking for
an alternate. And we got you up to see
if one of you would be willing to do it.

The course of the trial is going to
go -- we were going to go today --
originally I was going to go to about
3:30. We'll probably only do opening
statements today after we seat the jury.
We'll go tomorrow, Thursday, and then
into next week.

Does that schedule give anybody a

1 problem? Anybody got any commitments or
2 anything, a place they've got to go?
3 okay.

4 It's a criminal case. And does
5 anybody know Mr. Anderson, Bill Anderson,
6 from the prosecutor's office? Jameses
7 Radar and Elizabeth Zucker for the
8 defendant. The defendant is Frederick
9 Hall.

10 Okay. Anybody have any problem
11 sitting on a criminal case? No. All
12 right. We'll, let's go through this.

13 Mr. Frenchs, come on up. Have a
14 seat in the seat, if you will.

15 Is it French?

16 PROSPECTIVE ALTERNATE: Yes.

17 THE COURT: Well, we've got 12
18 jurors that are as of now going to hear
19 this case, and decide it. However, we
20 seat an alternate in a case that's going
21 to go for four or five days because you
22 never know what's going to happen.
23 Illness may befall one of them, a family
24 emergency, and you might be pressed into
25 service. There's a possibility, of

1 course, that you won't be able to go back
2 and deliberate on the case.

3 Both sides in this case are
4 entitled to the utmost attention of all
5 the jurors and the alternate because you
6 don't know until the jury instruction is
7 given whether you're going to be on the
8 case or not.

9 Knowing that it's possible you
10 won't be on a case, but it's also
11 possible that you will decide the case,
12 can you still give this case your utmost
13 attention?

14 PROSPECTIVE ALTERNATE: Yes sir.

15 THE COURT: Okay. If so selected,
16 you're willing to be the alternate in
17 this case?

18 PROSPECTIVE ALTERNATE: Yes, sir.

19 THE COURT: Okay. Great.
20 Mr. Anderson will have some questions for
21 you, as will Mr. Radar.

22 MR. ANDERSON: Your Honor.

23 Good afternoon, Mr. French. How
24 are you?

25 PROSPECTIVE ALTERNATE: Fine. Thank

1 you.

2 MR. ANDERSON: How long have you
3 been on jury duty? Is this your first
4 weeks, second week, third week?

5 PROSPECTIVE ALTERNATE: Second
6 week.

7 MR. ANDERSON: Ddid you serve on a
8 jury last week?

9 PROSPECTIVE ALTERNATE: No.

10 MR. ANDERSON: Judge Martin
11 indicated to you a little about the case.
12 But, anyway, it's a felonious assault
13 case. Two counts of attempted murder,
14 fleeing and alluding a police officer.
15 Basically it's alleged that this
16 defendant shot two young men on the
17 street at about 3:15 in the morning.

18 Is there anything about the facts
19 of this case that would in any way
20 disturb you at all?

21 PROSPECTIVE ALTERNATE: No.

22 MR. ANDERSON: Do you have any
23 feelings one way or the other pro gun or
24 anti gun?

25 PROSPECTIVE ALTERNATE: No.

1 MR. ANDERSON: All right.

2 One of the victims that was shot,
3 in fact, turned out to possess cocaine on
4 his person when he was being treated.
5 The fact that one of the witnesses that
6 the State intends to call will have been
7 convicted of a felony offense, would that
8 in any way influence how you judge his
9 credibility?

10 PROSPECTIVE ALTERNATE: No.

11 MR. ANDERSON: Okay. I mean,
12 you're allowed to use a prior conviction
13 in certain respects; one of which is to
14 judge credibility, as Judge Martin will
15 explain to you. But just because he had
16 been convicted of an offense, a felony
17 offense doesn't mean that you just
18 automatically discard everything he says.
19 Okay?

20 PROSPECTIVE ALTERNATE: (Nodding)

21 MR. ANDERSON: Do you feel
22 comfortable assessing the credibility of
23 people that you hear from?

24 I mean, we're going to hear
25 witnesses from this witness stand. And

1 you're going to be allowed to believe all
2 of what they say, none of what they say
3 or certain portions of it.

4 Do you feel comfortable separating
5 out what you believe versus what you may
6 not believe when you talk to people on a
7 daily basis?

8 PROSPECTIVE ALTERNATE: Possibly.

9 MR. ANDERSON: Okay. I know it's
10 hard. It's really hard the way I'm
11 giving it to you, but that's about the
12 best way I can do it.

13 Until you hear it, you're not going
14 to -- I mean, if somebody takes a witness
15 stand and says something that's just so
16 outlandishly false, you're going to say
17 that's garbage, right?

18 PROSPECTIVE ALTERNATE: Yes, sir.

19 MR. ANDERSON: Is there any reason
20 that you would hold the State of Ohio to
21 a higher burden of proof than that which
22 is required by law?

23 PROSPECTIVE ALTERNATE: No.

24 MR. ANDERSON: Okay. If the State
25 of Ohio meets its burden of proof, you

1 have the duty to find the defendant
2 guilty. And if we don't meet our burden
3 of proof, you have an obligation to find
4 the defendant not guilty.

5 PROSPECTIVE ALTERNATE: Fair.

6 MR. ANDERSON: Is there any reason
7 you feel you could not be fair and
8 impartial in this case?

9 PROSPECTIVE ALTERNATE: No.

10 MR. ANDERSON: Thank you, Your
11 Honor. At this point, the State will
12 pass for cause.

13 THE COURT: Mr. Radar?

14 MR. RADAR: Good afternoon. How
15 are you?

16 PROSPECTIVE ALTERNATE: Fine.

17 THE COURT: I'm Jim Radar, along
18 with Elizabeth Zucker, representing the
19 defendant in this case, Fred Hall.

20 We're not going to go through the
21 whole voir dire process.

22 Do you want to serve as an
23 alternate on this jury?

24 PROSPECTIVE ALTERNATE: Do I want
25 to? It's my duty, I assume.

1 MR. RADAR: I appreciate that.
2 Does it conflict with your work?

3 PROSPECTIVE ALTERNATE: Not really.
4 I drive a school bus for Mariemont
5 schools.

6 MR. RADAR: Do they plug in a
7 substitute while you're gone?

8 PROSPECTIVE ALTERNATE: They'd like
9 to have me there. I'm a good driver.

10 MR. RADAR: So would you rather be
11 there or is this a nice break? Or would
12 you really rather be there? I mean, is
13 it a hardship on the school board or
14 whatever?

15 PROSPECTIVE ALTERNATE: Well, they
16 seem to think it is. But, like I say, as
17 a responsible citizen -- I've voted ever
18 since I've been old enough to vote and I
19 feel like it's a citizen's
20 responsibility.

21 MR. RADAR: You know, the crux of
22 what I want to get at is I have said to
23 other members of the jury that the
24 judge's instructions have been developed
25 over a long period of time. And, you

1 know, people say I know something. I
2 believe something as a matter of faith or
3 I think somebody is probable.

4 And, really, the crux of following
5 the judge's instructions is to think
6 about those words carefully, very
7 carefully, what you know, what you see,
8 observe with your senses, feel, touch,
9 you know that. But a lot of other things
10 you believe firmly.

11 As in the case of religion, you
12 believe profoundly but it's a matter of
13 faith. And other things will fit the
14 judge's instructions, something that you
15 believe beyond a reasonable doubt which
16 he will define for you.

17 Will you follow those instructions?

18 I'll ask you a two-part question:
19 Will you follow his instructions?

20 PROSPECTIVE ALTERNATE: The best of
21 my ability, yes.

22 MR. RADAR: And will you not vote
23 guilty simply on a hunch or because you
24 think that's probable?

25 PROSPECTIVE ALTERNATE: Is that a

1 yes or no question?

2 MR. RADAR: Well, I'm asking you to
3 differentiate between what's probable.

4 THE COURT: Let me --

5 MR. RADAR: And what's based on
6 evidence.

7 THE COURT: Let me ask it another
8 way. I don't know if you've sat on any
9 other juries. But in a civil case the
10 standard of proof or the burden of proof
11 is by a preponderance of the evidence.
12 In other words, more likely than not. In
13 a criminal case, it's different. It's
14 beyond a reasonable doubt.

15 And the legislature has defined
16 reasonable doubt and I'll read it to you
17 in the instructions and you'll have it
18 back there.

19 Reasonable doubt is when you say
20 you're not firmly convinced. There's a
21 lot of things. It's not absolute because
22 it says everything relating to human
23 affairs is open to some possible or
24 imaginary doubt, but it's reasonable
25 doubt.

1 Beyond a reasonable doubt. That's
2 the burden the State has to prove their
3 case in a criminal matter.

4 Can you follow the instructions as
5 I give it to you applying the facts as
6 you hear them and in making a
7 determination as to whether the defendant
8 is guilty or not guilty of the offense?

9 PROSPECTIVE ALTERNATE: Yes.

10 THE COURT: Okay.

11 MR. RADAR: We pass for cause, Your
12 Honor.

13 THE COURT: All right. Does the
14 State care to exercise a peremptory
15 challenge to the alternate?

16 MR. ANDERSON: Your Honor, the
17 State would pass.

18 THE COURT: Mr. Radar, do you care
19 to exercise a peremptory challenge to the
20 alternate?

21 MR. RADAR: May we have a second?

22 THE COURT: Sure.

23 MR. RADAR: Your Honor, we accept
24 this alternate.

25 THE COURT: Okay. So you waive.

1 All right. Thank you very much.

2 Ladies and gentlemen in the back,
3 because we bought five of you up, we
4 don't need you. If we only brought one
5 of you up, we would have. That's the way
6 things work.

7 Do any of you have anything in the
8 jury room? Come up and grab your stuff
9 out of the jury room. Come on up and you
10 can go back to the Jury Commissioner's
11 office. Thank you all very much for
12 being with us today and sticking around
13 all afternoon. Thank you.

14 All right, will you all stand and
15 raise your right hand to be sworn.)

16 (The jury panel was duly sworn.)

17 THE COURT: Thank you.

18 Ladies and gentlemen, due to the
19 fact that it took a little longer than I
20 thought, which is nobody's fault, what
21 we're going to do today is hear the opening
22 statements of counsel and then we'll
23 adjourn to 10:00 tomorrow morning.

24 The opening statements of counsel,
25 I would advise you are not evidence. The

1 only evidence upon which you will decide
2 this case is what you hear from the
3 witness stand, and the exhibits, and
4 using my instructions of the law to make
5 your decision in this case. Nonetheless,
6 it is a proper part of a trial to allow
7 each attorney to tell you what they
8 believe the evidence is going to be in
9 this case and what they believe the
10 evidence is going to show.

11 So some attorneys call it a road
12 map. Some use other terms. It's a
13 proper part of the trial. But keep in
14 mind that nothing either attorney says is
15 evidence.

16 With that, we'll begin.

17 Mr. Anderson.

18 MR. ANDERSON: Thank you, Your
19 Honor.

20 (Opening statements have been
21 previously transcribed.)

22 THE COURT: All right, ladies and
23 gentlemen, at this time we're going to
24 break until tomorrow. We'll begin
25 hopefully promptly at 10:00 with

1 testimony. Tomorrow I expect to go to
2 between 4:00 and 4:30. There's another
3 matter that's come up that I have to
4 attend to that's absolutely unrelated to
5 that this afternoon. So the same
6 admonitions apply as I gave you earlier.

7 Don't discuss this case amongst
8 yourselves or with anyone else or permit
9 anyone to discuss it in your presence.
10 Don't come to any conclusions based on
11 anything you see or hear because you've
12 not heard one bit of evidence. So don't
13 come to any conclusion based on anything
14 you've seen. And don't attempt to do any
15 independent investigation to prove or
16 disprove any facts that you may have
17 heard in this case. And if you do come
18 across any media accounts of the case,
19 which I strongly doubt you will, but if
20 you do, disregard them in their totality.
21 With that, we'll break until tomorrow.
22 Be in the jury room at five until 10:00
23 tomorrow and we'll get started as close
24 to 10:00 as possible. Thank you.
25